

Posting workers to Finland

- employers' responsibilities and possible sanctions

22.9.2021, 14–15 pm



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Program

- What is posting?
- Employers' obligations when posting workers to Finland
- Changes to reporting notification starting 1.10.2021
- Contacting the OSH authority

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**More
information:
[Tyosuojelu.fi](https://tyosuojelu.fi) >
Posted worker**



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What is posting?

Posted worker is working

- normally in some other country than Finland,
- for the employer who is established and performing significant activities in another country than Finland,
- in Finland for a limited period of time and
- under an employment contract



Not posting

- A foreign company hires a person already residing in Finland or directly to Finland: not posting
- Business trips (negotiation)
 - Doesn't include work based on contract
- Self employed: not posting



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The posting legislation

Act on Posting Workers applies to (1/2)

- work carried out in Finland
- under an employment contract
- by a worker posted from another country
- based on an employer's contract on cross-border provision of services:
 - subcontracting,
 - intra-group/ intra-company posting or
 - temporary agency work



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The posting legislation

Act on Posting Workers applies to (2/2)

No minimum or maximum time limits.

Act on Posting Workers defines the parts of Finnish employment legislation which applies to posting

More information: [Tyosuojelu.fi](https://tyosuojelu.fi) >
[Act on Posting Workers](#)





Reporting duty – Posting notification (1/4)

- Before the work begins in Finland, the posting company must submit a notification to the OSH authorities
- If the given information changes significantly
 - a supplementary notification as soon as such changes occur



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Työsuojelu



Reporting duty – Posting notification (2/4)

- Electronic form:
[Notification of Posting of Workers](#)
- www.tyosuojelu.fi >
employment-relationship >
posted-worker > reporting-duty
- Negligence fee



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Reporting duty (3/4)

- Reporting is not needed when workers are **transferred internally within the company** for a maximum of 5 working days
 - Exception doesn't apply to the work at construction sector!
 - All previous posting periods (working days) for the last four months during which workers of the same posting company have been working in Finland are taken into account.



Reporting duty (4/4)

- 4 months period under review:

28.2.2021

1st day of the period
under review (4 months)



29.6.2021

The last workday
in Finland



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Notification must include personal data of the posted workers.



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Changes to reporting notification starting 1.10.2021

- the personal data necessary for the identification of each posted worker:
 - personal ID
 - the tax identification number of the State of residence
 - the tax identification number given by the Finnish Tax authority (construction sector)
 - the beginning and end dates of the posting or the anticipated end date

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**Long-term posting
= work lasting for a
minimum of 12
months**

**More information:
Long-term posting**



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Notification of extension of posting

- At the reasoned request of the posting company, the 12-month period may be extended to a maximum of 18 months
 - The application of the additional working conditions for long-term posting will then only start after the notified extension, if the posting continues in the same job at the same workplace.
- In practice, the application of the additional employment conditions will take place in 1 December 2021, as the calculation of the minimum time of 12 months began on 1 December 2020

Selecting a representative (1/2)

- Posting companies must have a representative in Finland whom the posted workers and the authorities can contact at all times during the posting.
 - In practice, this means the representative must have a postal address in Finland.
 - In practice, communication with the authorities is carried out via the representative.





Selecting a representative (2/2)

- A representative need not be selected in case the posting is no more than 10 working days in duration
 - All previous posting periods for the last four months during which workers of the same posting company have been working in Finland will be taken into account.
 - See slide 11
- Negligence fee

Contractor's responsibilities & representative



- The contractor (user company) must ensure that the posting company selects a representative
 - Specified in the agreement
 - By other means: e.g. email
- On the OSH authorities' request the contractor must obtain information from the posting company on where and how the representative can be reached and this information must be given to the OSH authorities
 - Negligence fee

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Available for immediate use, can be also in electronic form.



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Keeping information available in Finland (1/2)

Always:

- identifying details of the posting company
- identifying details of the posted worker
- Information on the posted worker's right to work
- information on the posted worker's terms and conditions of employment

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Available for immediate use, can be also in electronic form.



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Keeping information available in Finland (2/2)

When posting is longer than ten days:

- a record of working hours
- payslips
- document issued by a financial institution of the wages paid

Negligence fee

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**1.000–
10.000 €**



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Negligence fee (1/2)

If the posting company:

- completely fails to report the posting of workers, or performs the notification late,
- fails to provide a supplementary notification on significant changes
- fails to ensure the selecting of a representative in Finland
- fails to keep the required information available

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**1.000–
10.000 €**

Negligence fee (2/2)

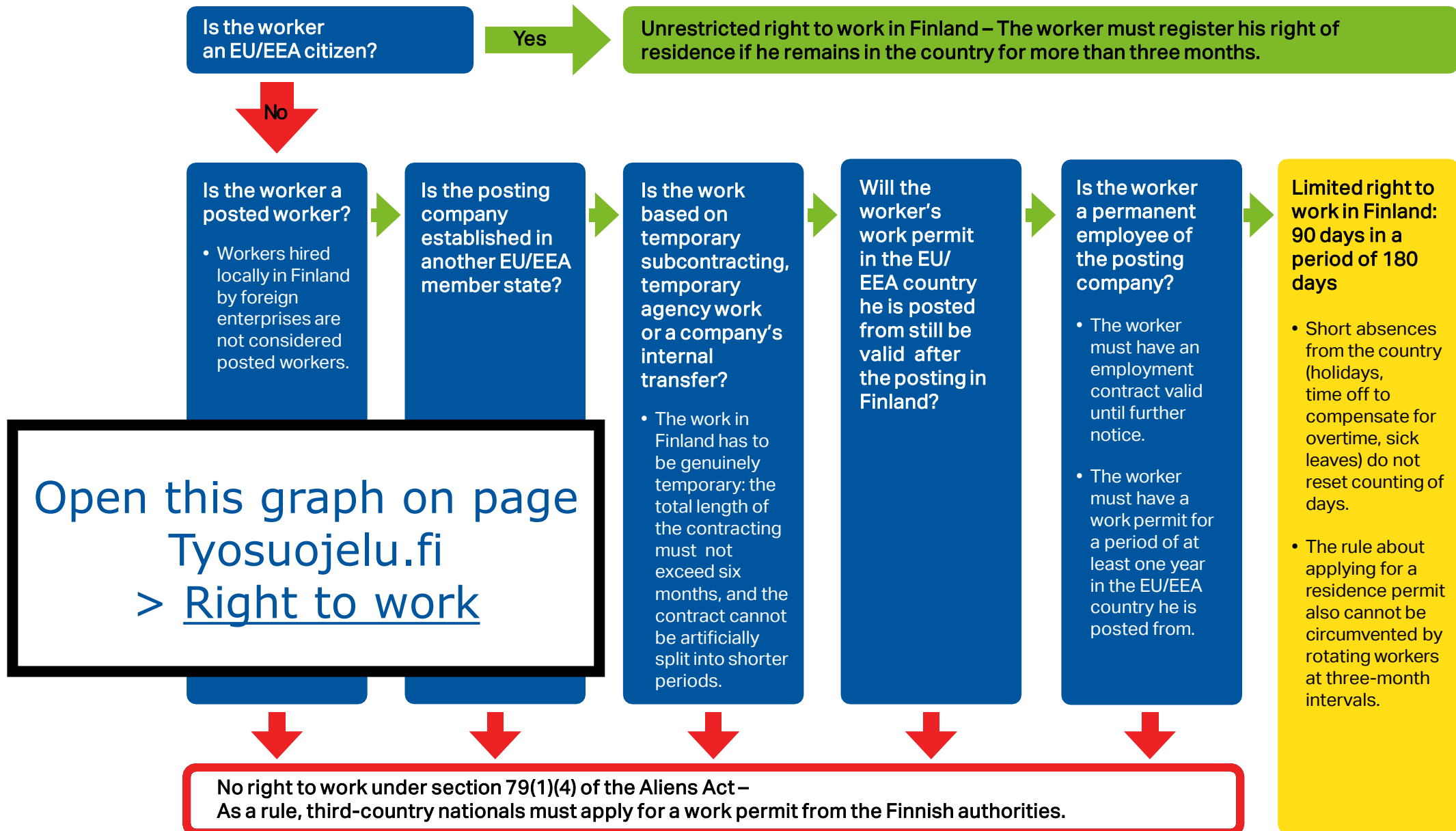
If the contractor

- neglects to find out from the posting company on where and how the representative can be reached and/or give this information to the OSH authorities



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Determination of a posted worker's right to work > Aliens Act



Applicable legislation

- The terms and conditions of employment of the posted worker are determined according to the legislation of both the country of origin and Finland
- If the law of another State is applicable to the employment contract of a posted worker, certain provisions of Finnish law and provisions of collective agreements must be applied to the employment contract of the posted worker, if they are more favourable to the worker than the legal provisions that would otherwise be applicable.
- More information: [Tyosuojelu.fi](https://tyosuojelu.fi) > [Applicable legislation](#)





Minimum wage (1/2)

- Finnish law does not specify a minimum wage.
- Posted workers must be paid at least the wages specified in the relevant universally applicable collective agreement.
- The unions publish their translated collective agreements for the sectors in their on-line services.



Minimum wage (2/2)

- In general, wages are paid per hour, per month or by the piece.
- Find out which collective agreement is applied in your sector. It provides the basis for
 - the hourly or monthly wage and
 - the task based payment component and
 - a possible personal payment component

Wage components (1/2)

- In many collective agreements the salary is determined by how demanding the job is or how skilled the worker is. It is not acceptable to pay the level 1 salary (trainee/unskilled worker) to a professional worker!
- Note also that the posted worker has to be paid all the extra salary components included in the collective agreement



Wage components (2/2)

- For work carried out on Sundays, church holidays and on May Day and Finnish independence day (6.12.) there is always a salary increase of 100 %
- Overtime work must always be compensated either in money or increased free time (100 % overtime equals 2 hours off)



Special compensations as part of salary

- Special compensations and allowances payable due to the worker's posting are considered part of the worker's pay **unless** they are paid as compensation of actual costs incurred because of the posting.
 - Per diems, travel, accommodation and meal compensations can not as a rule be included in the salary



Prohibition of discrimination

- The Finnish Non-Discrimination Act applies to work performed by posted workers in Finland
 - to prevent discrimination
 - to prevent enterprises from gaining advantage from violation the minimum terms
- Paying too low a salary to a posted worker can be a criminal offense.
- The OSH authority has the duty to report suspected work discrimination and extortionate work discrimination cases to the police.



Working hours (1/2)

- Regular working hours are often specified in collective agreements
- Regular working hours by Working Hours Act
 - eight hours a day
 - 40 hours a week



Working hours (2/2)

- Average working hours
 - weekly working hours may be arranged so that they work out to no more than 40 hours per week on average over an adjustment period of 52 weeks
 - working hours adjustment system, in advance!
 - collective agreements may have provisions of the average working hours, e.g. the length of the adjustment system might be shorter

Overtime work (1/2)

- Working hours exceeding the regular weekly working hours (8/40)
- Requires the employee's consent – employee **cannot** commit in the employment contract to working overtime whenever required
- Overtime must **always** be compensated separately

Overtime work (2/2)

- Since 2020: monitoring total hours at workplaces
- The ceiling is calculated on the basis of all hours worked, regardless of whether they are regular working hours, additional work, overtime, emergency work or handovers
- The maximum number of hours that employees can work each year on the basis of the Working Hours Act is approximately 2,300 hours (48 hours x the number of working weeks)

Statutory accident insurance (1/2)

- MAIN RULE: A posting company working in Finland must take out a statutory Finnish accident insurance for their employees from the start of their work
- An insurance policy taken abroad is not valid for this purpose!



Statutory accident insurance (2/2)

- EXCEPTION:

- A posted worker coming from an EU or EEA Member State who has a valid posted worker's certificate (an A1 certificate) does not need to have an accident insurance policy taken out in Finland
- For posted workers from a third country (not an EU or EEA Member State), the accident insurance must be taken out in Finland



Occupational Health Care



- Posting employer is required to provide his employees with statutory occupational health care for the duration of those employees' work in Finland
 - regardless of the size of the workplace or the duration of the work
- Arrangements where the user company organises occupational health care for the posting company are accepted, if a written agreement can be shown



Occupational Health Care Contract

- A written service agreement with the Finnish occupational health care service provider is required & a plan detailing how the services are to be implemented
- The foundation of occupational health care is the workplace survey, which the occupational health care service provider performs and writes up in a report.

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Tax numbers must be listed in the Finnish Tax Administration's public tax number register.

More information:
[Tax authority](#)



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Tax number

- All workers at a construction site must have a photo ID
 - from 2022 also at shipyards
- The photo ID must show:
 - whether the person in question is an employee or an independent contractor
 - if an independent contractor, the photo ID must show the name of their company
 - name and photo of the employee
 - name of the employer (wage payer), and
 - the tax number entered in the tax number register

OSH authority

- Monitors workplaces (inspections)
 - posting legislation
 - employment matters
 - safety and health matters
- Gives advice and guidance to both employers and workers.
- Labor authorities do not represent the interests of the parties, but are monitoring that the legislation is obeyed
- An occupational safety and health authority cannot assist in filing a lawsuit or provide legal counsel in court





How to contact us (1/2)

By mail:

- Go to website [Tyosuojelu.fi](https://tyosuojelu.fi) > Contact information
- Find the correct Agency by filling in the city of the workplace. In your mail, ask for
 - Inspectors of foreign workers if employment matters
 - Inspectors of safety matters if work environment matters



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Email addresses

- 1) Northern Finland: tyosuojelu.pohjois@avi.fi
- 2) Western and Inland Finland: tyosuojelu.lansi@avi.fi
- 3) Eastern Finland: tyosuojelu.ita@avi.fi
- 4) Southwestern Finland: tyosuojelu.lounais@avi.fi
- 5) Southern Finland: tyosuojelu.etela@avi.fi





How to contact us (2/2)

The Nationwide Telephone Service:
+358 295 016 620

- Gives advice and instructions related to health and safety at work and employment terms
- Service in English is available from Tuesday to Thursday at 9:00 am – 12:00 noon.



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